IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 5993 of 2004

Wg Cdr (Retd)Vinod Ramrao Paraskar...petitioner

vs

Tata Institute of Fundamental

Research and ors..... respondents

respondents Mr. Rajiv L Patil for petitioner

Mr. Rui Rodrigues with Mr B V Phadnis and Mr A G Gore for petitioner

Mr. K K Singhvi with Mr K M Naik for respondent nos.l to 3

Mr. Suresh Kumar for respondent no.5

CORAM: A.P.SHAH & S.U.KAMDAR JJ.

lst October, 2004

P.C.

Heard Mr. Rodrigues, learned counsel appearing for the petitioner and Mr. Singhvi, learned counsel appearing for the respondent nos l to 3 and

Mr Suresh Kumar, learned counsel appearing for the respondent no.5

2. This matter was heard at some length. It appears that the relation between the petitioner and the lst respondent institute have become strained on account of certain allegations made by the petitioner against the high officers of the institute. It is contended by the institute that the allegations are totally false and imaginary. In any event it is pointed out that a High Powered Committee has been appointed by the lst respondent to look into the allegations made by the petitioner. It is further stated that the petitioner was called upon by the management to produce evidence to substantiate his allegations but for the reasons best known to him he has not appeared before the concerned authority. Be that as it may, it has been assured by the management of the lst respondent that an inquiry will be held in the matter and if there is any illegality or irregularity appropriate action will be taken in accordance with law.

3 During the course of hearing it was submitted by the learned counsel for the petitioner that having regard to the strained relation, the petitioner does not wish to continue in service of respondent no.l and intends to take Voluntary Retirement from Service (VRS) of the respondent no.l institute under rule 48A of the C.C.S.Pension Rules, l972. According to the learned counsel for the purpose of qualifying service the petitioner is entitled to take into account his previous service with the Airforce. This is disputed by Mr Singhvi who submitted that rule 48A has no application to the present case. It is not necessary for us to express any opinion on this aspect at this stage. We feel that the interest of justice would be served if the petitioner gives VRS notice of three months without insisting for 3 months salary. The respondent no.l shall accept such notice of VRS and treat the same as resignation from service. It would be open for the petitioner to approach the competent authority to seek pension on the basis of the VRS and the competent authority will decide

whether rule 48A is applicable or not. However,we make it clear that petitioner shall cease to be in the employment of the lst respondent with effect from the date of notice of VRS. If the competent authority holds that rule 48A is not attracted the notice of VRS shall be treated as resignation. In any event, the lst respondent shall forthwith release the dues of the petitioner on the basis that he has resigned from service subject to the petitioner’s right to raise appropriate contentions before the competent authority as indicate above which will be decided by the competent authority in accordance with law. within a period of three months.

4 In view of the above order impugned termination letter does not survive as the petitioner took VRS/ resignation. Petitioner also unconditionally withdraws the allegations made in the petition against the respondent no.l.

The petitioner who is present in the court has handed over the notice of VRS to the Ld

Counsel for the respondent institute. A copy of the notice tendered, taken on record.

Petition stands disposed of.